

**Milton Town Council Meeting  
Milton Theatre, 110 Union Street  
Monday, July 7, 2008  
7:00 p.m.**

**1. Public Participation**

Katherine Grieg, 326 Union Street – I’m here, as usual, speaking as the President of the Garden Club. Saturday is our big day, that’s the Garden Tour starting at 9:00 a.m. until 3:00 p.m., 14 gardens; 6 houses are open; and, we have at Salon Milton, a refreshment stop where we will be serving for free: little tea sandwiches, lemonade, cookies, iced tea, little cakes, whatever. We have a lot of special events in the gardens and the cost is \$12 if you buy your tickets ahead of time. You can buy your tickets from me, or at the concert Wednesday night, or across the street at Antiques in Milton. If you are in Lewes, you can buy them at Lewes Printing on Savannah Road. \$15 the day of the tour and we will be set up in front of Goshen Methodist Church at the corner of Mulberry and Federal Streets. Thanks.

I will now close the Public Comment portion at 7:02 p.m.

2. Call to Order – Mayor Don Post opened the Milton Town Council Meeting at 7:02 p.m. on Monday, July 7, 2008.
3. Moment of Silence – Councilwoman Betts. All rose for a moment of silence.
4. Pledge of Allegiance to the Flag was said by all in attendance.
5. Roll Call Vote:

C Martin-Brown	here
C Duby	here
C Hudson	here
C Prettyman	absent
C Abraham	here
Vice Mayor Betts	here
Mayor Don Post	here
6. Additions or Corrections to the Agenda  
Mayor Post: Are there any additions or corrections to the agenda? C  
Abraham: I need to remove under No. 16, New Business, Item (d) Employee of the Quarter. We will move that to next month’s agenda in August. Are there any other additions or corrections?

7. Approval of Agenda  
Mayor Post: I need a motion to approve the agenda. C Martin-Brown: So moved. C Duby: Second. We have a motion and a second with the change to the agenda. All in favor. Opposed. Motion carried.
8. Additions or Corrections to the Minutes  
Mayor Post: Now we need approval of the presentation of the Minutes for June 2, 2008.
9. Approval of Minutes  
C Martin-Brown: Mr. Mayor, I move that the minutes for June 2, 2008 be approved as written. C Duby: Second. All in favor. Opposed. Motion carried.
10. Approval of the Written Committee Reports  
Now we need approval of the Written Committee Reports. C Betts: So moved. C Abraham: Second. Mayor Post: We have a motion and a second to approve the Committee Reports. All in favor. Opposed. Motion carried.
11. Town Manager Report – George Dickerson
  - a) Good evening, Mayor and Council. The first item which will be passed out are the handouts for the reports which reflect the Complaint reports just received at Town Hall, this is not part of the police report project. The reason is, that this was a new reporting system that we implemented as of January and to give you an update year-to-date as of the end of June, is that at Town Hall there were 98 complaints. Of those 98 there are 6 which are currently outstanding, that have not yet been resolved, but are being worked on. You have a whole range of breakouts there of what those could possibly be, by department, as well as what the complaint is.
  - b) The second report that you have is the newly instituted (also as of January 1<sup>st</sup>) and Allen's department with the Administrative Staff have been working through the work orders. Sometimes when Allen's men would do something, and do it quite efficiently by the way, we would not know it in Town Hall. Now what happens for each of those whether it is initiated with Allen's men or if it is initiated through the Administrative Office, a work order is prepared and since it's tracking, there were 129 of those types of complaints and they had all been completed. I think that is pretty relevant to the efficiency.
  - c) The Personnel Handbook that you've heard me talk about on several occasions, the final review of Administrative Staff of that, is almost complete. The updates and changes will be made. There are some comparisons that we need to do before we give it to the personnel committee, for their final review, but we hope to deliver to the personnel

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committee the new Personnel Handbook in August, for their review, comments and action.

- d) We have had 10 meetings, at least, on the upcoming fiscal year budget that would be 2008-2009. Obviously, the depressed economy is certainly reflective in those building permits; housing starts; and some changes that we're going to have to be dealing with. We are looking this year at every department, every line item. No issue is out of the equation. We are hoping that members could make a workshop, either July 21<sup>st</sup> or July 28<sup>th</sup>, which are both Mondays. If you could think about those two dates and let me know which suits you all better, we will schedule a workshop here at the theater. I believe it is available. I think we've checked that availability.
- e) Replacement/Repair of Well No. 3. (Please see New Business, Item d.
- f) The new playground equipment will be installed with a delivery date in August. The new equipment will be installed but prior to that, by approximately one week, we will be without the equipment that we have in there, because it takes a while to pull that out. Allen and his men did it for a cost savings. It's going to be actually with us using our backhoe and equipment to be pulling that out. We will actually have no playground equipment for approximately a one week period in August and we'll have to seal that area off while they are doing the prep work for installation of the new playground equipment.
- g) We are receiving several complaints and one of them was from me to staff, with regard to our web-site. I've gone on that thing and I've tried to... The way it was before we have had... I've had the staff meet with the owners that have done this. There were some shortfalls on their part. We're trying to get those corrected, but the complaints that we have received, I have experienced and right now it is terrible to try to navigate through that. We have met with them. We are trying to resolve those problems, but we do have this as a high priority to try to fix. But, right now, it's terrible and I agree with all the complaints that we've heard, in house, we're trying to find minutes and agendas, and you don't know where to click. It was more user-friendly before, than it is now. We're working on it. We realize that.
- h) Now we'll talk about the decibel meter machine or instrument that is used for sound levels, as our noise ordinance calls for. We have had a couple of complaints with regard to noise. The training is complete. The police department, as well as Robin Davis, Project Coordinator, and our Code Enforcement Officer have been trained on the decibel meter. The company representative was here. It is certified and accurate through Court, should we need it. There is a certification that each person that was

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trained on it has received. They've undergone that training. Training was held July 1<sup>st</sup> and July 2<sup>nd</sup>, so we knew how people trained were to use that decibel meter and know how to use it to take the reading and we've already had one complaint that we have gone out on the site and tested it. Our Code Enforcement Officer did that test. The decibel meter level that was acceptable was about 20 db below what the acceptable level was, so there was not a complaint. It took care of itself and the person that was the Complainant was there when the reading was taken, so he was very satisfied. That's all I have for now.

12. Town Solicitor Report

John Brady: We haven't been sued in the last two months and I wasn't here last month. Twenty-five months ago I met everyone here, when I came in, it was my first night as Town Solicitor. As some of you have seen or some people have commented, since the letter came out last week when it was noted on there for New Business, my request as the Town Solicitor to step down effective at the earliest opportunity. I have enjoyed working with the residents, the citizens, the Council, the Mayor, and the staff of the Town of Milton. As I progress on in my campaign for insurance commissioner, some people say I am crazy for running for state-wide office from Sussex; I want to make sure you have an attorney available at all times that you need one. So George and I had been discussing this for a period of time that as the state-wide campaign took off, that I may need to step down. That's why, by letter on June 27, 2008, George and I met in my office and I said it's time. I called the Mayor and explained what I wanted to do. I submitted the letter and put it on the agenda. It's been a very interesting 25 months here in Milton. A lot of things have happened. I joke about no lawsuits this month; well we haven't been successfully sued by anybody yet. We had a couple of Attorney General's request, one thing we messed up, one thing we didn't mess up. For the most part, things have gone fairly well from a legal standpoint. I tell it like it is or I told it like it is, at times I think every member of Council disagreed with my legal analysis on something or another. I don't get involved in the politics; I was just trying to do the right thing. I have enjoyed the faith and the trust that the members of Council and the Town staff have put into me, and my understanding is that the two people you are going to get to replace me are excellent attorneys and they will do a great job for the Town of Milton as you move forward. So, for the opportunities you have given me, I say, thank you. Charlie, this doesn't mean I'm backing out, I thought I saw Charlie Fleetwood here, I may not have. I'm still going to sponsor my concert, I'll be here in July, later on this month for the concert; I'll still be around; you'll see me on the Garden Tour; no other town I've ever represented has had a Garden report each month. That's some of the unique things and I call the Public Comment/Open Microphone Live and sometimes you get some of the best comments ever heard in a small town. And that's what small towns are supposed to be. For all your support over these last 25 months, thank you and in November, if you like me, you know what to do.

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[Applause.] C Betts: I would like to thank John Brady for his hard work and it was a pleasure working with him and good luck, John.

Mayor Post: I've written a little thing down here, but I want it to go into the record. John Brady: You don't have to do that now, you can save it for New Business. Mayor Post: Then you get praised twice in one night.

13. Written Reports from:

- a. Maintenance Report - C Abraham: Motion to accept report as written. C Betts: Second. Mayor Post: We have a motion and a second. Are there any questions of the Maintenance Report or the Motion? All in favor. Opposed. Motion carried.
- b. Project Coordinator/Code Enforcement - C Abraham: Motion to accept report as written. C Betts: Second. Mayor Post: We have a motion and a second. Are there any questions to the Motion? All in favor. Opposed. Motion carried.
- c. Police Report - C Abraham: Motion to accept report as written. C Betts: Second. Mayor Post: We have a motion and a second. Are there any questions to the Motion? All in favor. Opposed. Motion carried.

14. Old Business

- a) Appointment of members to 2008 committees whom completed the code of ethics form after June 2, 2008 - Mayor Post: At the same time I just want to read into the record for the Board of Adjustments, Larry Savage is resigning and I'll read his letter: "Dear Mayor Post: Due to the schedule of my employment and my involvement in other community activities at the present time, I am sorry to inform you of my resignation, as of July 1, 2008, as acting Chair and a member of the Town of Milton Adjustment Zoning Board. It has been a pleasure serving the Town of Milton for the past few years and I hope to serve in some capacity in the near future after my retirement. I've been a proud citizen of the Town of Milton for 32 years. My wife and I truly thank the Mayors and the Town Council for their hard work over the years to help make our town a better place to live. Sincerely, Larry Savage". C Betts: I would like to sadly move to approve the resignation of Larry Savage. C Abraham: Second. Mayor Post: We have a motion and a second. Any questions. C Betts: I would also like to thank Larry for his service. Mayor Post: All in favor. Opposed. Motion carried. Now for the appointments: Board of Adjustment: James Crellen; Economic Development Committee: Alex Dunnan; Historic District Expansion Ad Hoc Committee: Milton Kerro. That is it. C Duby: I move for approval of those appointments. C Hudson: Second. Mayor Post: We have a motion and a second. Any discussion to the motion? All in favor. Opposed. Motion carried.

- b) Discussion and possible vote regarding lighting in Wagamon's West Shore – Mayor Post: Leah, do you have anything on that, or George? C Betts: I think I'll refer it to George because he is the one that has the figures. George Dickerson: As most of you know, this issue keeps arising with regard to the lighting at Wagamon's. The streets have not been dedicated. What I had prepared for you and which I am passing out now, is a document that our Finance Director did with regard to what the cost analysis is and which of the comments are mine. It was my task at the last meeting, to come back at this meeting, after having reviewed the Bond associated with Wagamon's West Shore. After a review of that Bond, there is nothing in the Bond that requires the developer to pay for the lighting. In fact, what is approved which you will see as comments, and there are some comments on the back of the page with regard to that also, the developer and the site plan, as it was approved, was supposed to put the infrastructure in. That means run the wiring and the location of the lighting plan which was part of the overall plan that was approved. That was his role. Here's what happens. Delmarva Power comes in. They are the ones that actually put the poles up, as well as the light, as with other lighting around town. What becomes problematic with this issue, is that during Mayor Bushey's administration, a decision was made because of the lighting out there and the public safety issue with the development. A request was made, that the lighting be paid for by the Town. That was considered by the Council at that time, and a recommendation based on a letter the former Town Manager, Hal Godwin, had written, stipulated in the request that the Town would pay that lighting. I'm not sure of what the comments were, the history, if you will, other than the legislative intent was to provide safety for the residents of Wagamon's West Shore. As you look at it, people think that the Municipal Street Aid, which is given by the General Assembly each year, you can only apply for that one time. You can only add new streets that have been dedicated to the Town once a year. I put the dates in there for your reading when that can happen. We get approximately \$60,000 (roughly \$61,000) for Municipal Street Aid. Our lighting bill, total, for the Town of Milton is about \$120,000. You have a higher bill then you have revenue. In looking at that, the average monthly bill for Wagamon's, based on this research, is about \$1,050 per month. The issue comes down to that the Bond is not going to do anything with regard to this issue. The developer is meeting his requirements. Normally, what is done is a developer will continue to pay that lighting cost as the development comes on line; the lights are put in; the developer continues to pay that cost; until such time as the Town's Engineer approves those streets and the Town accepts those streets; that they are dedicated or deeded over to the Town. At which time, we would pick it up. As you can see, once a year, if you're not in that date, it could be as long as 23 months, depending on the process as to when you would actually be getting your money. It's only based on the length of the street.

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If you took the total street length in Wagamon's, we would only be getting as a cost benefit analysis from Municipal Street Aid whatever that distance is; whether it be 1.2 miles or whatever that distance is. I don't know what the distance is. The only way to reverse or to not pay this, it would now take a vote of Council; it would take a motion and a second not to pay it. Then a decision would have to be by Council vote to not pay this. As to what would happen, the bills come to the Town in the name of Milton Properties, LLC, which is Mr. Simmione's company, and he sends the bill to us and we pay it and that was all predicated on Council's action and the letter from Mr. Godwin. I would be happy to take questions. Mayor Post: I think you were just summarizing the fact of the bond issue and you've just done a summary of the past and how this transpired. The interesting thing is that no matter whether it's Wagamon's or what development it is, street aid does not cover the cost of the lights and we did take a very big hit with the increase from the power company which has raised electric rates quite a bit with our Town's electricity. Technically it doesn't really require any action if it remains as it stands. George Dickerson: I wasn't requesting action. Mayor Post: I'm questioning if this isn't something that we may need to turnover to our new Town Solicitor to review as to whether or not we have any recourse, even though we pay the bills back to the developer who is ultimately responsible. C Doby: I just have another piece of the same question. It sounds like what you're saying is that the developer, under the bond, has no obligation to pay the electricity. Mayor Post and George Dickerson: That's correct. C Doby: So clearly we need to keep paying it. I guess the question I have is do we have any leverage? The other thing I want to make sure I understand is that we're not getting street aid for this electricity because the streets have not been turned over. Mayor Post and George Dickerson: We are not. C Doby: Is there any way, any kind of leverage we have, in order to hasten the process by which they are turned over so that we can begin to get street aid. George Dickerson: It's going to be a considerable period of time as one of the issues are sidewalks and curbing out there and that there are some opened lots and discussions that Vice Mayor Betts and I had with Mr. Simmione, the developer. We want to make sure that prior to the streets being dedicated, the final coat being put on, that they meet our standards, but that all the sidewalks are required, because Mr. Simmione had deals with other developers that were builders out there, to put sidewalks in front of those houses. I don't care what deal he struck with them, by our approved plan, he would be required to put that curbing and sidewalks in and we should not accept them until that happens. I see you paying this bill for a long time. Mayor Post: And the corrections on some existing sidewalks and curbing out there that are already issues, and streets. But they are not done yet. I'm not going to comment until it's done, because that's what we retain an Engineering firm for. George Dickerson: Then you are up against the window with the Bond. The Bond can not be renewed after 2010, so the action that needs to be taken, is that action needs to be looked

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at and I talked with Bob Kerr, our Engineer, we need to plan far enough in advance, prior to that Bond expiring without renewal after 2010, that those sidewalks and this work is done and the developer doesn't just walk away from this thing, without that Bond being in place. The only leverage we have is the Bond. The Bond is our focus, but we need to use that Bond to make these things happen. The light is a vote by Council. If it hadn't been a vote, if it was something else, the Council made this a hard decision in the past, by making it a vote and a legislative action. The only way to reverse that is to have another legislative action that reverses it or can stop it. C Duby: I don't see that as a realistic possibility for us. It seems to me that we're going to be paying that bill in perpetuity. What would be nice is to get us to a situation where we're at least getting some aid to contribute toward that bill. So the real issue, in terms of action, is getting what needs to be done to get the streets dedicated to us so we can then apply for the Street Aid, based on that. Because we're going to be paying the bill. C Abraham: Mr. Mayor, can we refer this to Counsel and maybe have it on next month's agenda. Mayor Post: I know our current Counsel would like to answer this. John Brady: Mr. Dickerson asked me to look into this and one thing I think you can do, you can give notice to the developer that if the streets are not turned over in accordance with the engineer and the curbing and all of that, as of by May 1, 2009, so as to comply with the window that you have for next year's Bond, that the Town will not pay the electric bill starting July 1, 2009 and that a claim will be filed against the Bond for the streets not being done in a timely manner, since there have been residents out there for a period of time. That's the leverage question you were looking for, because developers don't like claims against the Bond, but you're giving enough window and showing that we're going to rescind this vote, or Council may rescind this vote. If something is not done by the time that you can apply for suburban street aid for those roads and report in May. You can also refer to new Town Solicitor and they may have a different opinion or they may say that was a good opinion. Mayor Post: I also think that this should be food for thought or as we have discussed in the past where that comes into. Does that come into the annexation agreement or where can we get it in place, because there are some developments currently, although they may be very small, but there's one person that will be living in that development probably 4 or 5 years without lights. So, we need to look at this, and how as developments come into town, is it again a percentage of once a street has X amount of residents, they have to have the infrastructure. I don't know how it can be handled. We need to look at other towns and see how they handle it. Lighting is very important. Did someone want to make a motion to send it to Counsel? C Betts: I would like to bring it up to our Counsel. We have one opinion from our Town Solicitor and I would like to bring it before our new one also. I'll make a motion to refer this matter to Town Solicitor. C Abraham: Second. Mayor Post: We have a motion

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and a second. Any discussion of the motion? All in favor. Opposed.  
Motion carried.

15. New Business

- a. Request from Town Solicitor to step down effective at the earliest opportunity – John Brady: “Mayor and Council Members, Town of Milton, 115 Federal Street, Milton, DE 19966. June 27, 2008. By telefax and email. Re: Request and Recommendation Regarding Town Solicitor Position. Dear Your Honors. Please let this letter serve as my request to step down as Town Solicitor at the earliest opportunity. I have thought long and hard about this decision, do so in light of time considerations, staffing at my office and my other obligations as a candidate for state-wide office. I am available to stay on as necessary to transition the new Counsel. This request should be posted on July 7, 2008 agenda for discussion and vote. Respectfully, John Brady”. Mayor Post: And here’s mine. “As Mayor, Council and I would like to take this opportunity to thank Mr. John Brady for his dedication and service to the Town of Milton. In the two years Mr. Brady has served as Town Solicitor he has consulted the Council and myself through some very difficult issues and has done so in a very professional manner. I ask Council to accept Mr. Brady’s letter to step down and join me in wishing him well during his political campaign and all his future endeavors.” C Betts: I make a motion to accept, with regret, Mr. Brady’s resignation. C Abraham: Second. Mayor Post: We have a motion and a second. Any questions for the motion? All in favor. Opposed. Motion carried.
- b. Appointment of New Town Solicitor – Mayor Post: I am putting forward the acceptance of Steen, Whaler and Shreider-Fox, Counselors at Law, as the new Town Solicitor for the Town of Milton. C Betts: I make a motion to accept the new Town Solicitor. C Abraham: Second. Mayor Post: We have a motion and a second. Any questions of the motion? All in favor. Opposed. Motion carried. At this time, Mary Shreider-Fox would you like to say a few words to the public? Mary Schreider-Fox: Sure. George Dickerson: Mayor, if I may, I would like to introduce Ms. Schreider-Fox. There was an interview process. I’ve known Ms. Steen for a number of years. Mary, not as many. Mary Schreider-Fox: First of all, I would like to say thank you for giving us the opportunity. Tempe Steen, Jim Whaler and I, Mary Schreider-Fox, all three have practiced Municipal Law before. All three of us will be sort of tag-teaming this effort, so we hope that will mean you have somebody available every time you need them and that we can help guide you through this next phase of Milton’s history and I’ve already been sitting here trying to read the charter and get up to speed here, although I’m not sure I’ll remember all of it later. That’s really all I have to say right now. I don’t have too much to add other than, thank you

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John for your comments earlier too. Much appreciated. We have big shoes to fill. I just hope that we can do it. [Applause]

- c. Discussion and possible vote to rename Atlantic Avenue – C Betts: We had a street and a sidewalk meeting on June 14<sup>th</sup>. At that time, a citizen brought to the committee, a request to bring to the Council just to consider renaming Atlantic Avenue to Veteran's Way or Veteran's Avenue, in honor of all the veterans now serving and those who have served our country. It's only to be considered to rename this street. It was not a definite thing. I have had some requests about not notifying the people on the street. I don't want anyone to think that it was an actual thing that was going to happen. It was for consideration to the Council and to let them know what had been requested. That's what was requested by a citizen, and a member of the VFW, asking for that consideration and it is up to the Council. I just wanted them to know that it was brought to the Committee. It's not a motion. I brought it forth from the Street Committee and I think this should be tabled for consideration and let people comment and have the property owner's comment to the Council. Mayor Post: Especially since it affects the property owners residing on Atlantic Avenue. They should certainly have the opportunity to say yes or no, as to whether they are or are not interested in renaming and there are some issues for renaming it that could create cost, as well. C Duby: C Betts, I just have one question, for clarification. The request applies to the street from Union all the way out to Country Road. C Betts: Yes. That was the request that was brought to the Committee. I would like to make a motion to table it until the next meeting to get some more information from the citizens and the property owner's on Atlantic Avenue. C Abraham: Second. Mayor Post: We have a motion and a second. Any questions to the motion? C Martin-Brown: I would like to suggest we table it until September because a lot of people are gone during the summer months and the sentiment of people that live along Atlantic Avenue is really important to our decision. C Betts: I could go with that to continue to the September meeting. I will amend the motion to continue this discussion until the September meeting, instead of the August meeting. C Abraham: Second. C Hudson: First of all, I would like to say that I would expect every resident on that street to be notified about any change in the name. I've had four phone calls this evening from people on that street: Wanda King, from the residence of Kathy & Eddie McGuiness, from the family of Jimmy and Mary Ann Warrington, from the family of Jeany and Sammy Argo – none of them are in favor of it because of the amount of effort it would take to change their identity. Not just your checkbook, your driver's license, your passport, all your relatives and friends and everything else with official notice, your bills coming in, also changes perhaps to the County Map. I do have two suggestions that we might consider when we have further discussion in September. First of all, the VFW has contributed \$3,000 to have three flagpoles installed in the

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memorial park. One suggestion would be that when they are installed, that we change the name to Veteran's Memorial Park. The second thing is that out by the American Legion Building, there is a lane there and that we change that to Veteran's Lane right next to that building. There are two ways we may honor the veterans without expensive cost or any inconvenience to anyone. Thank you. C Betts: That was the reason to extend it to table it until next month or the month after, to get everybody's input. C Duby: I just have a question. Are we required to or should we, for purposes of getting public input, hold a public hearing on this issue? John Brady: Not required to hold a public hearing. You can hold a public hearing on any issue the Council so desires. There could be a friendly amendment to the motion, to have it noticed for a public hearing in September. Mayor Post: Every time you have a public hearing there are a lot of costs involved with that. C Betts: I would like for every resident to be notified by mail. Mayor Post: That I think is an excellent idea for comment. C Betts: Then, they could send back comment to the Town Hall. I would like that made as a motion to send each and every person that lives on Atlantic Avenue notice of consideration of changing the name of the street. John Brady: You have one motion on the table, so you can add it to the motion that's on the table, but you can't do a second motion while one motion is pending. C Betts: I think it should be a motion. Mayor Post: It's administrative, John. Just notify the people on Atlantic Avenue, the street that it affects. C Betts: I would like to amend the motion to table this request until September and notify all residents on Atlantic Avenue for their input to the renaming of the street known as Atlantic Avenue. M Abraham: Second. Mayor Post: Motion is seconded. Any discussion. C Martin-Brown: Yes, Mr. Mayor. It needs to be amended again to notify all the residents on Atlantic Avenue "in writing". We omitted "in writing" in the motion. Mayor Post: Well, all right. I think administratively they could make that decision, but if you want to put it "in writing" in the motion, then fine. C Betts: I would like to amend the amended motion to send notification to all property owner's on Atlantic Avenue in writing in regards to their consideration of the renaming of Atlantic Avenue to Veteran's Avenue and table this request until the September meeting. C Abraham: Second. Mayor Post: We have a motion and a second. Any further discussion to the motion? All in favor. Opposed. Motion carried.

- d. Well Replacement No. 3 – George Dickerson: Well No. 3, which is on Berhinger Street, has failed. That well went into service in 1962. So it has given us service for 46 years, so I think it has met its life expectancy. It has actually pumped sand, burnt the pump up and we can get an emergency well permit, which we are in the process of doing, to replace that because we need that well on line. I'll have the numbers tomorrow in a proposal. The emergency to put this in is around \$70,000. We started out at about \$100,000, but with some other things they can do, we've got

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it down to about \$70,000. We will be replacing Well No. 3 on an emergency permit because we need that. We only had one back up well to that, so we actually need to fix that right now. John Brady: Mr. Dickerson, the well failed in the last week since the agenda was posted. George Dickerson: Yes. John Brady: OK and the information you got was today and the final information you got was after 1:00 p.m. before an amended posting could be made. George Dickerson: The final information will not be available until tomorrow. John Brady: Tomorrow. So because of that, I believe from your report, you are asking Council to ratify any decisions you make in order to get the well back on line because of the emergency nature. George Dickerson: That's correct. John Brady: OK. Because the information is not here yet and because it happened after the agenda was posted, based on the Attorney General's Office ruling of an emergency, it is the type of matter which you can allow another agenda amendment because it arose at or near the time of the meeting, after the agenda was published, the well repair is one of the specific things discussed: for public safety, and from an interruption to town services, that allows the report to come up at the time of the meeting to be added to the agenda. That was based on the decision the Attorney General's Office issued against the Town of Middletown that was amending their agenda for things that were not an emergency. So members of Council, if you wish now to have a motion to amend the agenda to permit the Town Manager to repair and do whatever is necessary to repair Well No. 3, which will be somewhere between \$70,000 and \$100,000, based on the preliminary estimate, this is the time that you would make said motion. C Abraham: I can make that motion. Motion to amend the agenda to give power to the Town Manager to contract to or repair Well No. 3. C Betts: Second. John Brady: They want to know if you need a dollar amount or if you just need the authority? George Dickerson: I would like to have both. The authority and not to exceed \$100,000 would be fine. Mayor Post: That would be good. C Abraham: I will amend my motion to include a motion to amend agenda to give power to the Town Manager to contract to and/or repair Well No. 3, not to exceed \$100,000. C Betts: Second. Mayor Post: We have a motion and a second. Any discussion to that motion? All in favor. Opposed. Motion carried. John Brady: That would probably now be under New Business under letter d) on the agenda. Mayor Post: To give power to the Town Manager. C Abraham: I would like to make a motion to give power to the Town Manager to have repairs or replacement of Well No. 3 made and not to exceed \$100,000. C Duby: Second. Mayor Post: We have a motion and a second. Any questions to the motion. All in favor. Opposed. Motion carried.

- e. Request to waive curb requirement for James and Mary Beth Parker. Property located at 204 Broadkill Road further identified by Sussex County Tax Map and Parcel number 2-35-14.11-57.00, 58.00 and 60.00.

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John Brady: Mr. Mayor, Chapter 16 of the Town Code of the Town of Milton, Section 1620 says in part that “Sub-divisions and new construction, as a condition of approval or issuance of building permit: All sub-divisions and new construction shall be required to install curbs, gutters and sidewalks where no such improvements exist or where such improvements are in need of repair. That’s sub-part a. Sub-part d is Exceptions. Waiver of requirement for installation of curbs, gutters and sidewalks may be granted by the Town Council for good cause shown by the property owner. Waiver may be deemed conditioned on the requirement of future construction of the improvements when deemed appropriate by Town Council.” On June 23, 2008, a letter was received from James D. and Mary Beth Parker asking that the Town waive curbing on the sidewalks on the property located on Morris Street Extended. Number 1, was when the Town asked me to put sidewalks along Morris Street Extended, I don’t recall the concern for curbing or required curbing. Number 2, the State of Delaware DelDOT did not require any improvements on Morris Street Extended. When I went back to them about curbs and sidewalks, they now want me to do a drainage study and improve the entire road from Route 16 to the end of my property. This could cost up to an additional \$35,000. Number 3, at present time there are no other properties along Morris Street Extended that have sidewalks or curbing. The Food Lion shopping center was built around 4 years ago and they have no curbing or sidewalks. Based on the existing properties and present zoning, it would be my opinion that any future commercial would be zero. Number 4, the Food Lion shopping center has only sidewalks along Route 16 and no curb sidewalk combinations, sidewalks only. Number 5, the foot traffic along Morris Street Extended is very little compared to the other parts of Town and all the properties along Morris Street Extended on my side of the road are not in the Town’s annexation. Number 6, based on the review notes from DelDOT, they are creating a lot of expenses for a business man (I am not a developer with a large commercial usage). The idea of a mini storage was to create a full-time employment for one person, to operate the carwash and the mini storage together. Having someone there would be better business for the citizens of the Town of Milton. In closing, I would appreciate if the Mayor and Town Council would consider the waiver of curbing on Morris Street Extended on my property, based on the items listed above. I will still install five foot wide concrete sidewalks along Morris Street Extended. Signed James D. Parker. P.S. Attached is a copy of the requirement from DelDOT if the curbing or sidewalks are required to be in DelDOT’s right away.” Mr. Mayor, that is a reading of the ordinance in question and the request made by the property owner for waiver. C Martin-Brown: Mr. Mayor, I would like to make a motion that we waive the curb requirement for this property located at 204 Broadkill Road, further identified by Sussex County Tax Map and Parcel number 2-35-14.11-57.00, 58.00 and 60.00. C Betts: Second. Mayor Post: We have a motion and a second.

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Any discussion of the motion? Can we do this one by Roll Call Vote?  
John Brady: You need to do so and somebody that will vote “yes”, there would have to be some comment saying that the letter indicated pursuant to 1620(d). That there was good cause shown by the property owner why the curb was not necessary and just reference any of the sub-parts of the letter that was read into the record. If someone votes against the motion, they would have to state the reasons why they do not believe there was good cause shown.

Roll call vote:

C Martin-Brown I’m voting to waive the requirement because of the 6 conditions that are presented by Mr. James D. and Mary Beth Parker to the neighborhood in which they are located; the practice of the commercial area that includes Food Lion; and, the general lack of foot traffic along Morris Street Extended. I vote we waive.

C Duby I vote to waive, too. I believe the reasons outlined in the Parker’s letter show sufficient good cause pursuant to Section 1620(d) of our Code (Streets and Sidewalks)

C Hudson Well considering the 6 reasons given and all the other things that have been presented, the maps, I vote to waive.

C Abraham I vote also to waive based on the reasons, but especially to 3 and 4 with reference to Food Lion not having the requirement and their being such a large commercial business, how could we expect this gentleman to do more than that?

Vice Mayor Betts I would like to vote to waive also, due to Section 1620(d) for the exceptions for good cause shown in his letter dated June 23, 2008 and the 6 paragraphs in his letter.

Mayor Don Post I vote to waive according to 1620(d) based on the 6 things outlined on the letter dated June 23, 2008.

Motion carried.

16. Executive Session: Discuss Land Acquisition, Litigation and Personnel – Do we have a motion to go into Executive Session at 7:58 p.m.? C Duby: So moved. C Hudson: Second. All in favor. Opposed. Motion carried. Do we have a motion to come out of into Executive Session at 8:43 p.m.? C Duby: So moved.. Mayor Post: All in favor. Opposed. Motion carried.

17. Adjournment - Do we have a motion to adjourn? C Duby: So moved. C Betts: Second. Motion carried. Any discussion? C Martin-Brown: Yes, Mr. Mayor.

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I don't know if this is the appropriate time, but I would like to express my personal appreciation for all the hard work the Town Staff and Manager manage to do every week and every month and all the little things they have to do all the time and I wish there were people here to see how much I appreciate how much they do. Mayor Post: All in favor of adjourning. Opposed. Motion to adjourn at 8:43 p.m. carried.